



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application of

Inventor : JAFARI et al.
Appln. No. : 10/617,590
Conf. No.: 3705
Filed: July 11, 2003
Title: MEDICAL VENTILATOR TRIGGERING AND CYCLING
METHOD AND MECHANISM
Group Art Unit : 3743
Examiner : Mitchell, T.
Docket No. : 99-27 C1

* * * * *

June 22, 2004

TERMINAL DISCLAIMER (By Attorney) Re Double-Patenting Rejection

Hon. Commissioner of Patents and Trademarks
Alexandria, VA 22313-1450

Sir:

The undersigned petitioner, an attorney of record, is hereby acting for the undernamed entity, which is the 100% owner of all rights, title, and interests in the subject application:

1. by virtue of being the inventor(s) and having not assigned this application;
2. as shown on the Assignment recorded January 7, 2002 on Reel 12438 at Frame 0638 in U.S. Patent Appln No. 09/970,383, now U.S. Patent No. 6,626,175, which is the parent of the present application;
3. as shown by the attached copy of the Assignment filed for recordal on _____;
4. and, if the Assignor in the Assignment is not the original owner (inventor(s)), the chain of title from the original owner to that Assignment as recorded on:
Reel _____ at Frame _____, Reel _____ at Frame _____, Reel _____ at Frame _____;

06/25/2004 ZJUHAR1 00000019 500558 10617590

01 FC:1251 110.00 DA
02 FC:1814 110.00 DA

and hereby disclaims (except as provided below) the terminal part of the statutory term of any patent granted on the subject application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as presently shorted (if at all) by any terminal disclaimer of:

5. any patent granted in regard to U.S. Application No. _____ filed _____;
6. the earlier granted United States Patent Number(s) 6,626,175;

to which said entity also has legal title.

Petitioner hereby reserves the right to extend the term of the patent, which issues on this application, for regulatory delay or otherwise as the law allows. Petitioner hereby agrees that any patent so granted on the subject application shall be enforceable only for an during such period that it and the patent(s) in the above items numbered 5 or 6 are commonly owned. This agreement runs with any patent granted on the subject application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of the patent(s) in the item numbered 5 or 6 above, as presently shortened by any terminal disclaimer, of the above-listed patent in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminal disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is otherwise terminated prior to the expiration of its fully statutory term as presently shorted by any terminal disclaimer.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United

States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Entity: RESPIRONICS, Inc.

Attorney Signature Michael W. Haas

Name: Michael W. Haas

Reg. No.: 35,174

Date: June 22, 2004

FEE TRANSMITTAL JUN 22 2004 (Effective 10/01/2003)		Application Number 10*617,590 Filing Date July 11, 2003 First Named Inventor JAFARI et al. Confirmation Number 3705 Group Art Unit 3743 Examiner's Name Mitchell, T. Label No. EL 997388038 US Attorney Docket No. 99-27 C1	
"Express Mail" Label No. EL 997388038 US TOTAL AMOUNT OF PAYMENT \$ 110.00			

METHOD OF PAYMENT		FEE CALCULATION (continued)																																																																																																																																																																																		
1. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge indicated fees and credit any over payments to: Deposit Account Number 50-0558 Deposit Account Name Respironics, Inc.		3. ADDITIONAL FEES <table border="1"> <thead> <tr> <th>Large Fee Code</th> <th>Entity Fee (\$)</th> <th>Small Fee Code</th> <th>Entity Fee (\$)</th> <th>Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr><td>1051</td><td>130</td><td>2051</td><td>65</td><td>Surcharge - late filing fee or declaration</td><td></td></tr> <tr><td>1052</td><td>50</td><td>2052</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet</td><td></td></tr> <tr><td>1811</td><td>100</td><td>1811</td><td>100</td><td>Certificate of Correction</td><td></td></tr> <tr><td>1812</td><td>2,520</td><td>1812</td><td>2,520</td><td>For filing a request for reexamination</td><td></td></tr> <tr><td>576</td><td>25</td><td>576</td><td>25</td><td>Additional filing receipt, duplicate or corrected due to applicant error</td><td></td></tr> <tr><td>1805</td><td>1,840*</td><td>1805</td><td>1,840*</td><td>Requesting publication of SIR after Examiner action</td><td></td></tr> <tr><td>1251</td><td>110</td><td>2251</td><td>55</td><td>Extension for response within first month</td><td></td></tr> <tr><td>1252</td><td>420</td><td>2252</td><td>210</td><td>Extension for response within second month</td><td></td></tr> <tr><td>1253</td><td>950</td><td>2253</td><td>475</td><td>Extension for response within third month</td><td></td></tr> <tr><td>1254</td><td>1,480</td><td>2254</td><td>740</td><td>Extension for response within fourth month</td><td></td></tr> <tr><td>1255</td><td>2,010</td><td>2255</td><td>1,005</td><td>Extension for response within fifth month</td><td></td></tr> <tr><td>1401</td><td>330</td><td>2401</td><td>165</td><td>Notice of Appeal</td><td></td></tr> <tr><td>1402</td><td>330</td><td>2402</td><td>165</td><td>Filing a brief in support of an appeal</td><td></td></tr> <tr><td>1403</td><td>290</td><td>2403</td><td>145</td><td>Request for oral hearing</td><td></td></tr> <tr><td>1451</td><td>1,510</td><td>1451</td><td>1,510</td><td>Petition to institute a public use proceeding</td><td></td></tr> <tr><td>1452</td><td>110</td><td>2452</td><td>55</td><td>Petition to revive unavoidably abandoned application</td><td></td></tr> <tr><td>1453</td><td>1,330</td><td>2453</td><td>665</td><td>Petition to revive unintentionally abandoned application</td><td></td></tr> <tr><td>1501</td><td>1,330</td><td>2501</td><td>665</td><td>Utility issue fee (or reissue)</td><td></td></tr> <tr><td>1502</td><td>480</td><td>2502</td><td>240</td><td>Design issue fee</td><td></td></tr> <tr><td>1814</td><td>110</td><td>2814</td><td>55</td><td>Statutory Disclaimer</td><td>110.00</td></tr> <tr><td>1460</td><td>130</td><td>1460</td><td>130</td><td>Petitions to the Commissioner</td><td></td></tr> <tr><td>1807</td><td>50</td><td>1807</td><td>50</td><td>Petitions related to provisional applications</td><td></td></tr> <tr><td>1806</td><td>180</td><td>1806</td><td>180</td><td>Submission of Information Disclosure Stmt</td><td></td></tr> <tr><td>8021</td><td>40</td><td>8021</td><td>40</td><td>Recording each patent assignment per property (times number of property)</td><td></td></tr> <tr><td>1809</td><td>770</td><td>2809</td><td>385</td><td>Filing a submission after final rejection (37 C.F.R. § 1.129(a))</td><td></td></tr> <tr><td>1801</td><td>770</td><td>2801</td><td>385</td><td>Request for Continued Examination</td><td></td></tr> <tr><td colspan="4">Other Fee (specify) _____</td><td colspan="2">SUBTOTAL (3) \$ 110.00</td></tr> <tr><td colspan="2">SUBTOTAL (2) \$ 0.00</td><td colspan="2"></td><td colspan="2"></td></tr> </tbody> </table>					Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid	1051	130	2051	65	Surcharge - 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